

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #01	CCRB Case #: 202000872	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 01/28/2020 10:20 PM	Location of Incident: By entrance of Duane Reade located at 2025 Broadway	18 Mo. SOL 3/14/2022	Precinct: 20		
Date/Time CV Reported Fri, 01/31/2020 4:19 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 01/31/2020 4:19 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT David Sansone	00000	939414	020 PCT
2. POM Michael McGuire	25906	955166	020 PCT
3. POM Alexis Rodriguez	28722	933272	020 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Jennifer Tierney	07903	949730	020 PCT
2. POM Jerry Hernandez	02132	965749	020 PCT
3. POM Richard Conde	24074	945605	020 PCT
4. POM Samuel Joseph	23982	963082	020 PCT
5. POM Kelvin Cruz	17165	958450	020 PCT
6. POM Steven Rodriguez	28141	933279	020 PCT
7. POM Donald Capak	16560	960320	020 PCT

Officer(s)	Allegation	Investigator Recommendation
A . LT David Sansone	Force: Lieutenant David Sansone used physical force against § 87(2)(b)	
B . POM Alexis Rodriguez	Force: Police Officer Alexis Rodriguez used physical force against § 87(2)(b)	
C . LT David Sansone	Force: Lieutenant David Sansone used physical force against § 87(2)(b)	
D . LT David Sansone	Force: Lieutenant David Sansone used a taser against § 87(2)(b)	
E . LT David Sansone	Force: Lieutenant David Sansone used a taser against § 87(2)(b)	
F . LT David Sansone	Abuse: Lieutenant David Sansone threatened § 87(2)(b) with the use of force.	
G . LT David Sansone	Abuse: Lieutenant David Sansone threatened § 87(2)(b) with the use of force.	
H . POM Michael McGuire	Force: Police Officer Michael McGuire used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
I . POM Michael McGuire	Force: Police Officer Michael McGuire restricted § 87(2)(b) breathing.	
J . POM Alexis Rodriguez	Discourtesy: Police Officer Alexis Rodriguez spoke discourteously to § 87(2)(b)	
K . LT David Sansone	Force: Lieutenant David Sansone used physical force against § 87(2)(b)	
L . LT David Sansone	Discourtesy: Lieutenant David Sansone spoke discourteously to § 87(2)(b)	
M . LT David Sansone	Discourtesy: Lieutenant David Sansone spoke discourteously to § 87(2)(b)	
N . LT David Sansone	Discourtesy: Lieutenant David Sansone acted discourteously toward § 87(2)(b)	

Case Summary

On January 31, 2020, § 87(2)(b) filed this complaint with the CCRB on behalf of himself and § 87(2)(b).

On January 28, 2020, at approximately 10:20 p.m., at 2025 Broadway in Manhattan, Lieutenant David Sansone and Police Officer Alexis Rodriguez, assigned to the 20th Precinct, used physical force against § 87(2)(b) (**Allegations A and B: Force, § 87(2)(g)**). Lt. Sansone punched and used a taser against § 87(2)(b) (**Allegations C through E: Force, § 87(2)(g)**). Lt. Sansone threatened § 87(2)(b) with the use of force (**Allegations F and G: Abuse of Authority, § 87(2)(g)**). Police Officer Michael McGuire used physical force against § 87(2)(b) (**Allegation H: Force, § 87(2)(g)**) and restricted § 87(2)(b) breathing (**Allegation I: Force, § 87(2)(g)**). PO Rodriguez spoke discourteously to § 87(2)(b) (**Allegation J: Discourtesy: § 87(2)(g)**). Lt. Sansone used physical force against § 87(2)(b) (**Allegation K: Force, § 87(2)(g)**) and spoke discourteously to § 87(2)(b) (**Allegation L: Word: Discourtesy, § 87(2)(g)**). Lt. Sansone spoke and acted discourteously towards § 87(2)(b) (**Allegations M and N: Discourtesy, § 87(2)(g)**).

§ 87(2)(b) was arrested as a result of this incident (Board Review 01). No other arrests or summonses resulted from this incident.

One cellphone video and 15 police body worn camera (BWC) videos were received for this incident (Board Review 02 – Board Review 16).

Findings and Recommendations

Allegation (A) Force: Lieutenant David Sansone used physical force against § 87(2)(b).

Allegation (B) Force: Police Officer Alexis Rodriguez used physical force against § 87(2)(b).

§ 87(2)(b).

Allegation (C) Force: Lieutenant David Sansone used physical force against § 87(2)(b).

Allegation (D) Force: Lieutenant David Sansone used a taser against § 87(2)(b).

Allegation (E) Force: Lieutenant David Sansone used a taser against § 87(2)(b).

Allegation (F) Abuse of Authority: Lieutenant David Sansone threatened § 87(2)(b) with the use of force.

Allegation (G) Abuse of Authority: Lieutenant David Sansone threatened § 87(2)(b) with the use of force.

Allegation (H) Force: Police Officer Michael McGuire used physical force against § 87(2)(b).

§ 87(2)(b).

The following facts are not disputed. On January 28, 2020, at approximately 10:20 p.m., § 87(2)(b) (Board Review 17), the manager of a Duane Reade store located at 2025 Broadway in Manhattan, observed a black male, identified via investigation as § 87(2)(b) taking some medication and other items from the shelves inside the store, and placing them inside his backpack and pockets. § 87(2)(b) called 911 and reported a theft in progress (Board Review 18). Lt. Sansone and PO Rodriguez responded to the location, and spoke to § 87(2)(b) who pointed § 87(2)(b) out to the officers. Lt. Sansone and PO Rodriguez approached and tried to handcuff § 87(2)(b) but § 87(2)(b) pulled away, struggled with the officers, and tried to run out of the store. Lt. Sansone deployed his taser at § 87(2)(b) and PO McGuire, who arrived shortly after Lt. Sansone and PO Rodriguez, pushed § 87(2)(b) to the ground.

§ 87(2)(b) (Board Review 19) acknowledged taking items from the shelves in the store, and placing them in his pockets and backpack, and said he intended to leave the store without paying for the items. § 87(2)(b) however, had a change of heart, returned the items to the shelves, and decided to leave the store. Lt. Sansone and PO Rodriguez approached § 87(2)(b) as he was about to exit the store, and tried to turn and handcuff § 87(2)(b). § 87(2)(b) pulled his arms away from the officers and tried to run out of the store because he believed he had not committed any crime. The two officers grabbed § 87(2)(b) at which point a struggle ensued. § 87(2)(b) tried to pull away and free himself from the officers' grips and tensed his body during the struggle, but the

officers grabbed § 87(2)(b) punched him “all over his body,” and tried to bring him to the ground. § 87(2)(b) did not see which officer punched him. At some point, Lt. Sansone tased § 87(2)(b) in cartridge mode, and the taser darts connected to § 87(2)(b) back. § 87(2)(b) felt intense pain all over his body, but did not fall to the ground, and continued to struggle and attempt to free himself from the officers’ grips. § 87(2)(b) did not recall being tased any additional times, but said Lt. Sansone kept the taser pointed at him for an extended period of time. A few additional officers arrived on scene a few minutes later, and PO McGuire, identified via investigation, grabbed § 87(2)(b) and pushed him to the ground. § 87(2)(b) fell on his stomach, hit his chin on the concrete sidewalk, and thus sustained some bruising on his chin (Board Review 20). He also sustained bruising to his legs and back (Board Review 21). § 87(2)(b) acknowledged being transported to the hospital after his arrest, but did not sign and return medical release forms, thus his medical records were not obtained.

Lt. Sansone and PO Rodriguez recorded the entirety of this incident on their respective BWCs (Board Review 03 – Board Review 04). PO Rodriguez’s BWC (Board Review 04) at 00:58, shows PO Rodriguez and Lt. Sansone entering the Duane Reade and speaking with § 87(2)(b) who is standing by the entrance. At 01:10, § 87(2)(b) points forward towards one of the aisles, which is a few feet from the entrance. PO Rodriguez and Lt. Sansone walk towards the aisle, and approach § 87(2)(b) who has a black and white backpack strapped behind his back. At 01:15, PO Rodriguez and Lt. Sansone grab § 87(2)(b) right arm, turn § 87(2)(b) around so that his back is facing the officers, and order § 87(2)(b) to put his hands behind his back. At 01:25, § 87(2)(b) pulls away from the officers, and runs towards the exit, which is approximately six feet away. Lt. Sansone and PO Rodriguez immediately grab § 87(2)(b) arms and try to pull § 87(2)(b) towards them. § 87(2)(b) and the two officers struggle and PO Rodriguez’s camera shakes rapidly. At 01:30, § 87(2)(b) tries to enter the vestibule that leads to the exit. The two officers try to pull § 87(2)(b) back inside the store. At 01:32, § 87(2)(b) and the two officers are in the vestibule. The officers and § 87(2)(b) continue struggling and the camera continues to shake. At 01:33, § 87(2)(b) exits the store onto the sidewalk. Lt. Sansone and PO Rodriguez, who are in the vestibule, try to pull § 87(2)(b) back into the vestibule. At 01:36, Lt. Sansone and PO Rodriguez appear to press § 87(2)(b) against the doorway, resulting in PO Rodriguez’s camera becoming dark and shaking rigorously. At 01:51, PO Rodriguez’s BWC falls to the ground, but faces upward. The camera captures Lt. Sansone, PO Rodriguez, and § 87(2)(b) on the sidewalk in front of the store, still struggling. § 87(2)(b) appears to be holding onto the front door of the store, while Lt. Sansone and PO Rodriguez struggle to reach for § 87(2)(b) arms. At 02:00, § 87(2)(b) is no longer holding onto the door, but continues to struggle with Lt. Sansone and PO Rodriguez, who appear to be standing in front and behind of § 87(2)(b) respectively. The officers tell § 87(2)(b) to stop resisting, but he replies that he did not do anything. At 02:36, Lt. Sansone appears to strike § 87(2)(b) two times with a closed fist, but it is unclear from the footage where on § 87(2)(b) body the punches land. At 02:44, Lt. Sansone removes his taser out of his holster, and instructs PO Rodriguez to hold § 87(2)(b). The struggle intensifies as § 87(2)(b) and PO Rodriguez make rapid movements with their bodies, but it is unclear exactly what is happening. At 02:51, Lt. Sansone points and deploys his Taser in cartridge mode towards § 87(2)(b) back. A rattling sound is heard, at which point § 87(2)(b) yells out, suggesting he is in pain. § 87(2)(b) and the two officers move out of the camera frame, but the sound of what appears to be a continuing struggle is heard in the background. At 02:54, Lt. Sansone yells, “Stop resisting,” but is unclear from the footage exactly what is happening, except that a second rattling sound of what appears to be a taser discharge is heard in the background. At 02:56, PO Rodriguez yells, “Drive him! Drive! Drive.” Between 03:00 and 03:07, the rattling taser discharge sound continues in the background. At 03:07, PO Rodriguez appears to say to Lt. Sansone, “Drive! Get skin.” At 03:10, Lt. Sansone replies, “I can’t; he is holding it,” while the rattling taser sound continues. At 03:17, PO Rodriguez says to Lt. Sansone, “Get your spray.” At 03:20, the rattling sound stops, and Lt. Sansone yells, “Fuck, he’s got my Taser.” The officers and § 87(2)(b) are still not in the camera frame. At 03:35,

PO McGuire and PO Jennifer Tierney arrive on scene. At 03:39, PO McGuire appears to grab and push § 87(2)(b) toward the ground. § 87(2)(b) appears to fall face first and lands on the camera. § 87(2)(b) who was outside and heading home when he observed the interaction between the officers and § 87(2)(b) whom he did not know, recorded portions of this incident on his cellphone (Board Review 02). The video begins with Lt. Sansone, PO Rodriguez, and § 87(2)(b) on the sidewalk in front of the Duane Reade. At 00:02, PO McGuire and PO Tierney run towards the two officers and § 87(2)(b). At 00:04, PO McGuire grabs § 87(2)(b) left arm and shoulder, and pushes § 87(2)(b) towards the ground. § 87(2)(b) falls face first on the ground. At 00:05, Lt. Sansone is holding a taser in his right hand, and what appears to be Oleoresin Capsicum (OC) pepper spray in his right hand.

Lt. Sansone, PO Rodriguez, and PO McGuire's testimonies (Board Review 22 – Board Review 24) were all consistent with their BWCs. Lt. Sansone and PO Rodriguez both acknowledged using physical force against § 87(2)(b) and said the sole purpose of the force used was to restrain § 87(2)(b) and prevent him from struggling and fleeing from the officers. Lt. Sansone and PO Rodriguez did not recall punching § 87(2)(b) but acknowledged that any punches to § 87(2)(b) would have been within the context of subduing and preventing § 87(2)(b) from struggling with the officers. Lt. Sansone acknowledged deploying his taser in cartridge mode against § 87(2)(b) and said he did so because the officers were unable to physically restrain § 87(2)(b) who continued to struggle with the officers. The taser deployment, however, was ineffective because the darts did not fully connect to § 87(2)(b) skin, and he continued to struggle with the officers. Lt. Sansone then tased § 87(2)(b) in drive stun mode in order to apply pain and prevent § 87(2)(b) from resisting, but that also was ineffective because § 87(2)(b) continued to struggle with the officers. Lt. Sansone acknowledged attempting to tase § 87(2)(b) a second time in drive stun mode, but was unable to do so because § 87(2)(b) grabbed the taser and thus prevented the taser from making contact with his skin. Lt. Sansone said the continuous rattling sound captured in the BWC was possibly due to the fact that his hand remained on the taser trigger when § 87(2)(b) grabbed the taser, and that he did not tase § 87(2)(b) any additional time. Lt. Sansone acknowledged removing his OC spray, and said he intended to use it against § 87(2)(b) during the struggle, but was unable to do so because PO Rodriguez was in close proximity to § 87(2)(b). PO McGuire (Board Review 24) said that he pushed § 87(2)(b) to the ground because PO Rodriguez and Lt. Sansone had been unsuccessful in restraining § 87(2)(b) whilst standing, and that bringing § 87(2)(b) to the ground was the only viable and effective way of subduing and restraining § 87(2)(b). Lt. Sansone, PO Rodriguez, and PO McGuire did not recall if § 87(2)(b) sustained any injuries as a result of this incident, but said Lt. Sansone and PO Rodriguez sustained sprains and lacerations to their right hands, respectively (Board Review 25).

Police officers are permitted to use force when it is reasonable to ensure their safety, to gain compliance, to place a person into custody or to prevent an escape from custody. In determining whether the use of force is reasonable, officers shall consider the nature and severity of the crime committed, the actions taken by the subject, duration of the action, whether the subject is resisting, and the immediacy of the perceived threat or harm to the subject, officers, and/or bystanders. NYPD Patrol Guide Procedure 221-01 (Board Review 26).

The use of Oleoresin Capsicum (OC) pepper spray devices or Conducted Electrical Weapons (CEW) may be used to gain or maintain control of persons that are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons. Active resistance includes physically evasive movements to defeat a member of the service's attempt at control. Active aggression consists of a threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent. NYPD Patrol Guide Procedure 221-07 and 221-08 (Board Review 27 – Board Review 28).

The video evidence and § 87(2)(b) own account, all establish that § 87(2)(b) actively resisted the officers by struggling, pushing, pulling away, and attempting to free him from the

officers grips during a lawful arrest. § 87(2)(g)

§ 87(2)(b) The video also establishes that § 87(2)(b) continued to struggle with Lt. Sansone and PO Rodriguez, despite the officers attempts to physically restrain him. § 87(2)(g)

Allegation (I) Force: Police Officer Michael McGuire restricted § 87(2)(b) breathing.

§ 87(2)(b) said he felt what appeared to be multiple knees on his back and neck when he was brought to the ground, and as a result, he experienced shortness of breath. § 87(2)(b) informed the officers that he could not breathe, but officers, none of whom § 87(2)(b) saw, did not remove their knees from § 87(2)(b) back and neck. § 87(2)(b) did not recall how long the officers had their knees on his back and neck, and acknowledged tensing his body and placing his hands underneath his stomach when he was brought to the ground, but denied making any bodily movements or further resisting.

§ 87(2)(b) (Board Review 29) said that PO McGuire, identified via investigation, placed and pressed his knee on § 87(2)(b) neck and head as soon as § 87(2)(b) was brought to the ground, while PO Rodriguez and PO Tierney knelt next to § 87(2)(b) and reached for § 87(2)(b) arms. No other officers placed their knee on § 87(2)(b) neck or back.

§ 87(2)(b) cellphone video at 00:05, shows PO McGuire, who is kneeling next to § 87(2)(b) left side, place his left hand on § 87(2)(b) head soon after § 87(2)(b) is brought to the ground. PO Rodriguez is kneeling next to § 87(2)(b) right side, and is holding § 87(2)(b) right hand. PO Tierney appears to be kneeling next to § 87(2)(b) lower body on his left side. At 00:07, PO McGuire places his left knee on § 87(2)(b) head, while the officers try to grab and pull § 87(2)(b) hands behind his back. At 00:09, PO McGuire's left knee and shin appear to be directly on § 87(2)(b) neck (Board Review 30). § 87(2)(b) repeatedly yells, "I can't breathe." At 00:12, PO Rodriguez and PO McGuire, who still has his knee on § 87(2)(b) neck, are holding § 87(2)(b) right hand, and appear to be struggling to bring § 87(2)(b) hand behind his back. Lt. Sansone is standing in front of the three officers and § 87(2)(b) At 00:32, PO Rodriguez, PO McGuire, and PO Tierney appear to bring both of § 87(2)(b) hands behind his back, and attempt to handcuff him. PO McGuire still has his knee on § 87(2)(b) neck. At 00:46, § 87(2)(b) is handcuffed, at which point PO McGuire takes his knee off § 87(2)(b) neck. § 87(2)(b) again says that he can't breathe. At 00:55, PO Rodriguez, PO Tierney, and PO McGuire turn § 87(2)(b) so he is lying on his left side. At 01:02, and 01:36, PO McGuire and PO Rodriguez both say to § 87(2)(b) "if you are talking, then you can breathe." At 01:39, additional officers arrive on scene, and at 03:22, § 87(2)(b) is picked up from the ground and escorted away.

PO McGuire did not recall placing his knee directly on § 87(2)(b) neck, but said he placed his knee on § 87(2)(b) back and shoulder to prevent any further resistance from § 87(2)(b) and also to allow the officers to gain control of § 87(2)(b) arms and handcuff him. PO McGuire, at the prompting of his Police Benevolent Association (PBA) representative, § 87(2)(b) said the cellphone footage "spoke for itself," and that he could not tell whether he placed his knee on § 87(2)(b) neck, nor was it ever his intention to do so. PO McGuire acknowledged hearing § 87(2)(b) complaint about not being able to breathe, and said the officers thus turned him on his side, but did not know what caused § 87(2)(b) to experience difficulty breathing.

PO Rodriguez and Lt. Sansone did not recall observing PO McGuire place his knee on § 87(2)(b) neck, but said § 87(2)(b) continued to resist by tensing his body and failing to give the officers his arms after he was brought to the ground. Lt. Sansone and PO Rodriguez both

acknowledged hearing § 87(2)(b) complaint about not being able to breathe, but did not know what caused § 87(2)(b) to experience difficulty breathing.

Police officers must comply with Patrol Guide Procedure 221-01 when trying to gain compliance, control and custody of an uncooperative subject, and must avoid actions that may result in chest compression, such as sitting, kneeling, or standing on a subject's chest or back, which could reduce the subject's ability to breathe. NYPD Patrol Guide Procedure 221-02 (Board Review 31).

The cellphone video established that PO McGuire placed his left knee and shin directly on § 87(2)(b) neck for approximately 40 seconds, and that § 87(2)(b) during and after that time period, complained of difficulty breathing. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (J) Discourtesy: Police Officer Alexis Rodriguez spoke discourteously to § 87(2)(b)

Allegation (L) Discourtesy: Lieutenant David Sansone spoke discourteously to § 87(2)(b)

§ 87(2)(b) said that Lt. Sansone repeatedly called § 87(2)(b) a “fucking asshole,” while the other officers tried to handcuff § 87(2)(b) did not recall hearing any other officer speak discourteously to § 87(2)(b)

§ 87(2)(b) did not allege any discourtesies against any of the officers.

§ 87(2)(b) cellphone video at 00:11, shows PO Rodriguez and PO McGuire struggling to reach for § 87(2)(b) arms. At 00:15, PO Rodriguez says to § 87(2)(b) “Stop fucking resisting.” At 00:48, § 87(2)(b) is handcuffed. Lt. Sansone, who is standing next to PO Rodriguez, PO McGuire, and PO Tierney, who are all kneeling next to § 87(2)(b) goes over the radio and says that § 87(2)(b) is in custody. Lt. Sansone also appears to be panting and trying to catch his breath. At 01:25, Lt. Sansone, looking down towards § 87(2)(b) says to § 87(2)(b) “You suck, and you are a fucking asshole.”

PO Rodriguez had no independent recollection using any profanities towards § 87(2)(b) nor did he recall knowing why he did so. Lt. Sansone, on the other hand, acknowledged calling § 87(2)(b) a “fucking asshole,” and said he did so because he was “high on adrenaline,” tired, and stressed out as a result of § 87(2)(b) resistance. Lt. Sansone had no other reasons for speaking discourteously towards § 87(2)(b) and said it was never his intention to do so.

Police officers must always maintain a higher standard of integrity than what is generally expected of others, and must treat every citizen with compassion, courtesy, professionalism, and respect. NYPD Patrol Guide Procedure 200-02 (Board Review 32). However, in prior disciplinary cases, the NYPD has held that the use of profane remarks during stressful situations or while an officer is trying to get a chaotic situation under control, does not constitute misconduct, DAO-DCT Disciplinary Case No. 2017-17005 (Board Review 33).

Although PO Rodriguez had no independent recollection of using any profanities towards § 87(2)(b) the cellphone video depicts him telling § 87(2)(b) to “stop fucking resisting,” during the officers attempts to obtain § 87(2)(b) hands. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Additionally, while it is not disputed that the officers' interaction with § 87(2)(b) was seemingly a stressful encounter, the video evidence established that Lt. Sansone's use of profanity toward § 87(2)(b) § 87(2)(g) was made after § 87(2)(b) was handcuffed and restrained § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation (K) Force: Lieutenant David Sansone used physical force against § 87(2)(b)

Allegation (M) Discourtesy: Lieutenant David Sansone spoke discourteously to § 87(2)(b)

Allegation (N) Discourtesy: Lieutenant David Sansone acted discourteously toward § 87(2)(b)

It is not disputed that Lt. Sansone pushed and spoke discourteously to § 87(2)(b). § 87(2)(b) said that he stood approximately six to seven feet away from the officers and § 87(2)(b) and recorded the incident on his cellphone. Lt. Sansone approached and pushed § 87(2)(b) on his chest with both hands, and then ordered § 87(2)(b) to “back off.” § 87(2)(b) took approximately two steps backwards as a result of Lt. Sansone’s push. None of the officers gave § 87(2)(b) any orders to move back prior to Lt. Sansone’s push, nor was § 87(2)(b) close to the officers and § 87(2)(b) at the time he was pushed. At some point, § 87(2)(b) requested Lt. Sansone’s name. Lt. Sansone approached him and said, “Do you think now is the time to ask me for my fucking name?” § 87(2)(b) panned his camera towards Lt. Sansone’s badge, captured Lt. Sansone’s name, and said he no longer needed Lt. Sansone’s name. Lt. Sansone walked away, but continued to use profanities towards § 87(2)(b) none of which § 87(2)(b) recalled.

§ 87(2)(b) cellphone video shows § 87(2)(b) standing approximately six feet away from the officers and § 87(2)(b) at the time he begins the recording. At 00:10, § 87(2)(b) takes couple of steps forward, and appears to be approximately three to four feet away from the officers and § 87(2)(b). Lt. Sansone has his back towards § 87(2)(b). At 00:20, Lt. Sansone turns towards § 87(2)(b) and says, “Back up! Back up.” § 87(2)(b) appears to reply, “I am not moving.” At 00:24, Lt. Sansone approaches § 87(2)(b) and uses his left hand to push what appears to be § 87(2)(b) shoulders. The camera shakes and slightly pans away from the officers and § 87(2)(b). At 00:25, § 87(2)(b) who still appears to be standing at his original position, says to Lt. Sansone, “Yo!, What the fuck, I am standing right here.” § 87(2)(b) appears to be standing approximately three feet away from Lt. Sansone. At 00:30, Lt. Sansone approaches § 87(2)(b) and pushes § 87(2)(b) on his shoulders a second time. § 87(2)(b) appears to take a step backwards. At 00:32, § 87(2)(b) says to Lt. Sansone, “I am standing still.” At 00:33, Lt. Sansone says to § 87(2)(b) “Back up for my safety,” and “Will you stop moving up on me.” § 87(2)(b) who is still standing approximately three to four feet away, tells Lt. Sansone that he is not moving and standing still. At 00:46, § 87(2)(b) is handcuffed. At 01:06, § 87(2)(b) tells Lt. Sansone that he had no reason for pushing § 87(2)(b). At 01:45, additional officers arrive. At 01:57, Lt. Sansone approaches § 87(2)(b) a third time, and orders him to back up. § 87(2)(b) replies that he is not doing anything. At 02:01, Lt. Sansone says § 87(2)(b) is making him nervous because he keeps coming up on a police scene. Lt. Sansone then points forward and yells, “Back up.” At 02:05, § 87(2)(b) asks Lt. Sansone why he has to go any further from where he is standing. Lt. Sansone yells and replies that § 87(2)(b) keeps moving closer to the officers. At 02:16, PO Rodriguez approaches § 87(2)(b) points forwards, and says to § 87(2)(b) “Sir, just stand over there,” and tells him to give the officers a little bit more space. At 02:44, § 87(2)(b) asks Lt. Sansone for his name. At 02:49, Lt. Sansone approaches § 87(2)(b) and yells, “Do you think now is the time to ask me my name?” § 87(2)(b) replies yes. At 02:53, Lt. Sansone tells § 87(2)(b) to wait, and that he will tell § 87(2)(b) his name. § 87(2)(b) pans the camera towards Lt. Sansone’s badge, captures Lt. Sansone’s name, and says to Lt. Sansone, “I got your name. It’s all right.” Lt. Sansone responds, “good, then we’re square” and walks away from § 87(2)(b). At 03:04, Lt. Sansone walks back towards § 87(2)(b) unprompted and whilst pointing towards § 87(2)(b) who is being picked off the ground by officers, and yells at § 87(2)(b) “Do you see what just fucking happened?” PO Rodriguez places his hand on Lt. Sansone’s chest, and stands between § 87(2)(b) and Lt. Sansone. At 03:08, Lt. Sansone says to § 87(2)(b) “You have the fucking nerve (inaudible)” and “You did nothing to fucking help us.” At 03:20, Lt. Sansone says to § 87(2)(b) “Fuck you.” § 87(2)(b)

§ 87(2)(b) replies, “Fuck you too.” Lt. Sansone and the officers on scene walk away with § 87(2)(b)

§ 87(2)(b) The video ends at 03:41.

PO McGuire’s BWC (Board Review 05) at 04:12, shows Lt. Sansone visibly upset and yelling at § 87(2)(b) Two uniformed officers approach Lt. Sansone, and pull him away from § 87(2)(b)

Lt. Sansone acknowledged pushing § 87(2)(b) and said he did so because § 87(2)(b) ignored multiple orders to move back, and stood very close to the officers while they were trying to restrain and handcuff § 87(2)(b) close proximity to the officers, his refusal to comply with Lt. Sansone’s orders, and the fact that the officers did not know who § 87(2)(b) was, caused Lt. Sansone to fear for his safety and that of his officers, and thus pushed § 87(2)(b) in order to create a safe perimeter for the officers. Lt. Sansone had no other reasons for pushing § 87(2)(b) Lt. Sansone also acknowledged using the profanities captured in the videos towards § 87(2)(b) He said he was extremely stressed and “high on adrenaline” as a result of the interaction with § 87(2)(b) and thus lost his temper during the interaction with § 87(2)(b)

As previously discussed, police officers are permitted to use force when it is reasonable to ensure their safety, and to gain compliance, NYPD Patrol Guide Procedure 221-01. Officers are also required to maintain a higher standard of integrity than what is generally expected of others, and must treat every citizen with compassion, courtesy, professionalism, and respect. NYPD Patrol Guide Procedure 200-02.

The video evidence established that § 87(2)(b) stood approximately three to four feet away from the officers while they were struggling to arrest § 87(2)(b) and ignored Lt. Sansone’s order to move back. § 87(2)(g)

§ 87(2)(g) Additionally, the video evidence also established that Lt. Sansone used profanities towards § 87(2)(b) repeatedly yelled at and attempted to approach § 87(2)(b) multiple times while yelling to the point that other officers on scene stepped in and pulled Lt. Sansone away from § 87(2)(b) who at that time was at a reasonable distance away from the officers and § 87(2)(b) and there was no indication that Lt. Sansone was attempting to take any law enforcement action against § 87(2)(b) While it is not disputed that this incident was seemingly a stressful encounter, the video evidence established that Lt. Sansone’s words and actions towards § 87(2)(b) caused the situation to continue when it didn’t seem that it would have otherwise, § 87(2)(g) served rather to intimidate and shame § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 34).
- § 87(2)(b)
- Lt. Sansone has been a member of service for 16 years, and has been a named subject in four CCRB complaints, and six allegations, none of which were substantiated, § 87(2)(g)
- PO McGuire has been a member of service for eight years, and has been a subject in two CCRB complaints, and seven allegations, one of which was not substantiated, and the other of which is pending investigation. § 87(2)(g)

- PO Rodriguez has been a member of service for 18 years, and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil, and Criminal Histories

- This case was not eligible for mediation.
- On January 20, 2022, a Notice of Claim inquiry was sent to the NYC Office of the Comptroller, and the inquiry is still pending. The results will be added to the case file upon receipt (Board Review 36).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Squad No.: 1

Investigator:	<u>Enoch Sowah</u>	<u></u>	<u>01/24/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Mgr. Joy Almeyda</u>	<u></u>	<u>1.24.22</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date